AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Columbia

United States of America
v.
Mick Chan
DOB: XX/XX/XXXX

Defendant(s)

Case: 1:21-mj-00591
Assigned to: Judge Meriweather, Robin M.
Assign Date: 9/7/2021
Description: COMPLAINT W/ ARREST WARRANT

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of _____ in the _____ in the District of Columbia, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. § 1752(a)(1)-	Entering and Remaining in a Restricted Building or Grounds
18 U.S.C. § 1752(a)(2)-	Disorderly and Disruptive Conduct in a Restricted Building or Grounds
40 U.S.C. § 5104(e)(2)(D)-	Disorderly Conduct in a Capitol Building
40 U.S.C. § 5104(e)(2)(G)-	Parading, Demonstrating, or Picketing in a Capitol Building

This criminal complaint is based on these facts:

See attached statement of facts.

☒ Continued on the attached sheet.

[redacted], Special Agent
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone.

Date: 09/07/2021

2021.09.07 14:17:15 -04'00'

Judge's signature

City and state: Washington, D.C.

Robin M. Meriweather, U.S. Magistrate Judge
Printed name and title

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STATEMENT OF FACTS

1. Your affiant, [redacted], is a Special Agent of the Federal Bureau of Investigation ("FBI"), assigned to the Newark Field Office. Currently, I am tasked with investigating criminal activity in and around the U.S. Capitol on January 6, 2021. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of violations of Federal criminal laws.

2. The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification were allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

3. On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Shortly thereafter, by approximately 1:30 p.m., the House and Senate adjourned to separate chambers to resolve a particular objection. Vice President Mike Pence was present and presiding, first in the joint session, and then in the Senate chamber.

4. As the proceedings continued in both the House and the Senate, and with Vice President Mike Pence present and presiding over the Senate, a large crowd gathered outside the U.S. Capitol. As noted above, temporary and permanent barricades were in place around the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside.

5. At such time, the certification proceedings were still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, around 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows and by assaulting members of the U.S. Capitol Police, as others in the crowd encouraged and assisted those acts.

6. Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

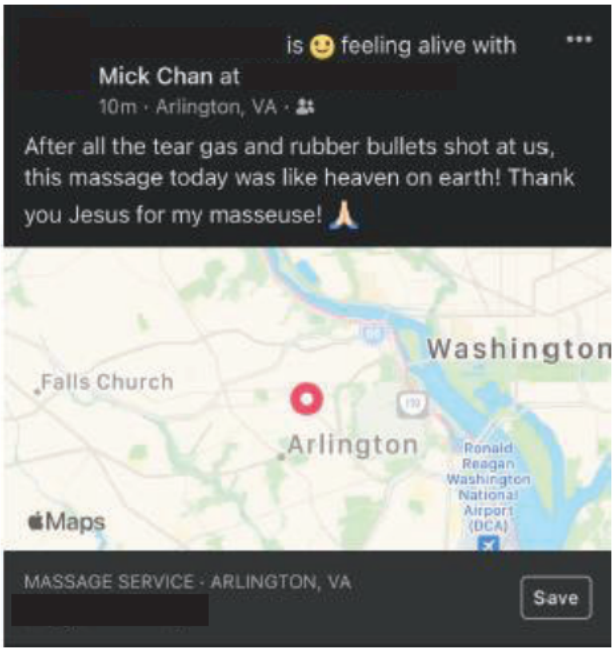
7. During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of

violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

8. On or about January 7, 2021, a member of the public submitted a tip to the FBI identifying MICK CHAN ("CHAN") as a person who had entered the U.S. Capitol. The tipster wrote:

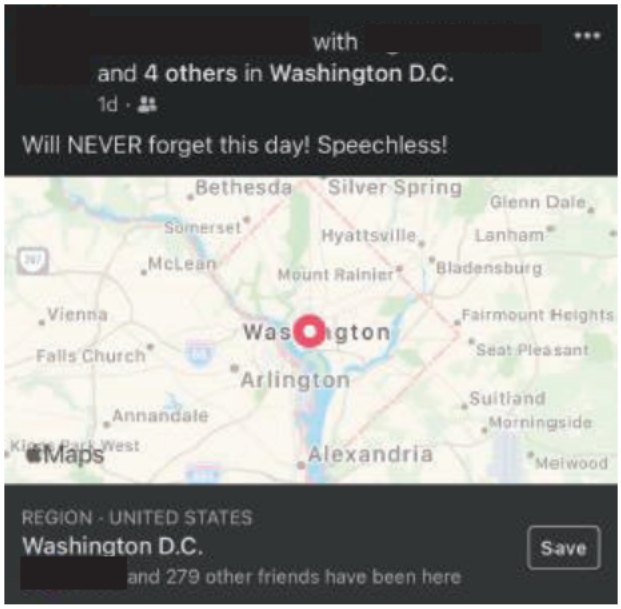
> My friend [name redacted], her friend Mick Chan, her mother [name redacted] and an unidentifiable person was at the capital leading the charge of mob-members that broke into the capital. I have screenshots of her posting via Facebook that she was in attendance. I then called her the following day and got a play by play action report of what she and her friend/mother have done leading the charge and inside the capital. At the time of speaking she was staying at the Hyatt in Alexandria, VA for 4 days. At this time I believe she[']s back at home where she resides with her father in Jersey City, NJ and her mother in Monmouth Beach, NJ.

The tipster provided two screenshots to the FBI that the tipster's friend ("PERSON 1") had posted on Facebook. CHAN was tagged in the first post, which was posted from Arlington, Virginia, and referenced "the tear gas and rubber bullets shot at us":[1]


is feeling alive with
Mick Chan at
10m · Arlington, VA ·
After all the tear gas and rubber bullets shot at us, this massage today was like heaven on earth! Thank you Jesus for my masseuse!
Washington
Falls Church
Arlington
Ronald Reagan Washington National Airport (DCA)
Maps
MASSAGE SERVICE · ARLINGTON, VA
[redacted]
Save

[1] The FBI interviewed PERSON 1, who admitted being near the U.S. Capitol on January 6, 2021, but denied entering the Capitol or engaging in any violence. PERSON 1 denied knowing anyone who was violent or committed crimes on January 6, 2021. PERSON 1 did not mention CHAN by name during the interview. According to records obtained through a search warrant served on Verizon Wireless, on January 6, 2021, in and around the time of the incident, the cell phone associated with PERSON 1's phone number was not identified as having utilized a cell site consistent with providing service to a geographic area that includes the interior of the U.S. Capitol Building.

In the second post, posted from Washington, D.C., PERSON 1 wrote, "Will NEVER forget this day! Speechless!":



9. On or about January 8, 2021, CHAN contacted an FBI Special Agent after receiving the Special Agent's phone number from a mutual friend. CHAN sent the following text message, using a phone number ending in -3017, to the Special Agent: "Someone about to post on my behalf thru fb… I'll be known publicly that I've entered Capitol. Any fallout u think I should be aware of?"[2] On or about January 9, 2021, CHAN had a telephone conversation, again using the phone number ending in -3017, with the Special Agent in which he admitted to entering the U.S. Capitol on January 6, 2021. CHAN said he traveled to Washington, D.C., with two female friends. CHAN told the FBI that he attended the January 6, 2021 rally at which President Donald Trump spoke and walked with the crowd to the Capitol. CHAN saw confrontations with law enforcement officers and fences being torn down but denied being involved in those confrontations or removing any fences or barricades. Around 2:00 p.m., CHAN climbed up bleachers or scaffolding on the West Front of the Capitol to take photographs, which he believed made him one of the first dozen or so people to climb up in this area. CHAN was hit by what he believed was a paintball fired by police officers, which left a welt on his temple. CHAN and others nearby coughed from a substance in the air. CHAN observed that it took about an hour for people to breach the initial barriers and that they were able to enter the Capitol about 15 to 20 minutes later.

10. CHAN told the FBI that he "broke into, well, air quotes, broke into" the Capitol. CHAN clarified that others had already forcefully breached the Capitol before he entered. CHAN saw a camera inside a doorway, which led to a staircase. CHAN noticed that about eight to ten police officers were at the doorway, attempting to lock it down. He claimed he left the area after a rioter attempted to rally others to break through the line of officers because he did not want to take part in any confrontation. CHAN walked around the Rotunda for about 15 minutes, taking

[2] The full phone number is known to the FBI but is redacted here due to the public nature of this filing.

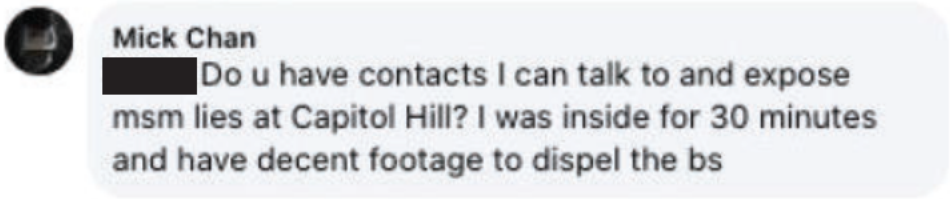
pictures. CHAN saw people affected by tear gas and a line of police officers, and he heard some rioters say they had come from the Senate, where there were police officers with guns. CHAN estimated that he was inside the Capitol for about 30 minutes until being forced to leave. Most of the rioters were compliant with police officers' directions but some pushed and yelled obscenities. CHAN did not witness any violence but did hear rioters say things like, "we backed the blue but next time we're coming with guns."

11. CHAN told the FBI that he stayed at a hotel in Crystal City, Virginia, for a few days after January 6. CHAN drove around Washington, D.C. and observed that it was "fortified." He carried a "stab and poke thing" for self-defense because he was concerned people might attack Trump supporters. CHAN explained that he called the FBI because he believed the Trump rally was infiltrated and the breach of the Capitol was carried out by members of Antifa and Black Lives Matter ("BLM"). CHAN believed Antifa and BLM counter-protesters were masquerading as Trump supporters and noticed that there were people with camouflage backpacks who looked like members of the Oath Keepers but did not have Oath Keepers insignia.

12. On or about January 9, 2021, the FBI received an anonymous tip along with a photo that purported to show unidentified people outside the U.S. Capitol "[l]ifting barricades outside." The photo shows a person I believe to be CHAN. He is wearing a red baseball hat backwards, goggles, a white jacket, and a black shirt:

13. On or about January 17, 2021, an anonymous person submitted a tip to the FBI with a link to a post from Facebook. The tipster wrote, "he claims to have been inside and have footage. I saw his post on the timeline of someone I don[']t really talk to. Don[']t want to be involved." In the Facebook post sent by the tipster, a user named Mick Chan posted a person's name followed by the comment, "Do u have contacts I can talk to and expose msm lies at Capitol Hill? I was

inside for 30 minutes and have decent footage to dispel the bs."[3] Below is a screenshot of this comment:


Mick Chan
[redacted] Do u have contacts I can talk to and expose msm lies at Capitol Hill? I was inside for 30 minutes and have decent footage to dispel the bs

14. On or about June 21, 2021, the FBI interviewed CHAN in person. Prior to the interview, the FBI contacted CHAN at the phone number ending in -3017. CHAN told the FBI that he traveled to Washington, D.C., on January 6, 2021, with two female friends. They arrived at the National Mall when President Trump was almost done speaking and walked with the crowd to the U.S. Capitol. CHAN said he was among the first to arrive at the Capitol but the barricades had already been broken down. CHAN noticed that the violence escalated quickly and believed that the lack of counter-protesters was due to members of Antifa being present in disguise. CHAN said that he was hit by a paintball on his right temple and tear gassed, and showed the mark on his temple to the FBI. CHAN witnessed a confrontation between officers and rioters in which rioters threw things at the officers, took officers' shields, and broke a Capitol window.

15. CHAN entered the Capitol by himself and saw eight or nine police officers locking the doors behind him. He claimed that he entered the Capitol with "journalistic intent."[4] CHAN denied witnessing any violence or destruction of property inside the Capitol. CHAN took some videos inside the Capitol but his phone ran out of memory, and he sent some videos and photos to news media outlets. In the Capitol, CHAN wore a red hat backwards and black jeans, which still had dye on them from the paintballs. CHAN saw people wearing camouflage but denied previously telling the FBI that he saw members of the Oath Keepers and denied knowing who the Oath Keepers were. CHAN did know of the Proud Boys and had previously met members of that group. CHAN encountered two men who he believed were members of Antifa; they claimed to have come from the Senate floor and showed him a photo of a pristine-looking Senate floor. CHAN observed police officers wearing riot gear but also police officers using their cell phones. CHAN stayed in the Washington, D.C., area for a few days after January 6 and believed he suffered a concussion. CHAN said he was considering joining a class action lawsuit for people who were tear gassed on January 6.

16. The FBI reviewed surveillance video footage recorded at the U.S. Capitol on January 6, 2021. The FBI identified a person believed to be CHAN based on the clothing he admitted he wore on January 6 when he entered the Capitol, including a backwards red hat and black jeans. The FBI Special Agent who interviewed CHAN on or about June 21, 2021, stated

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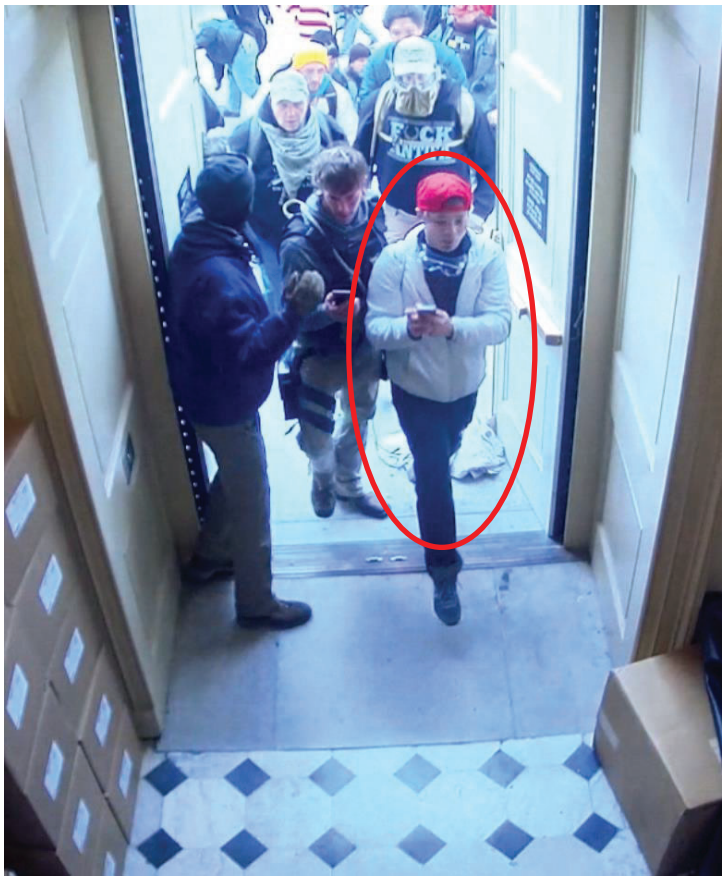
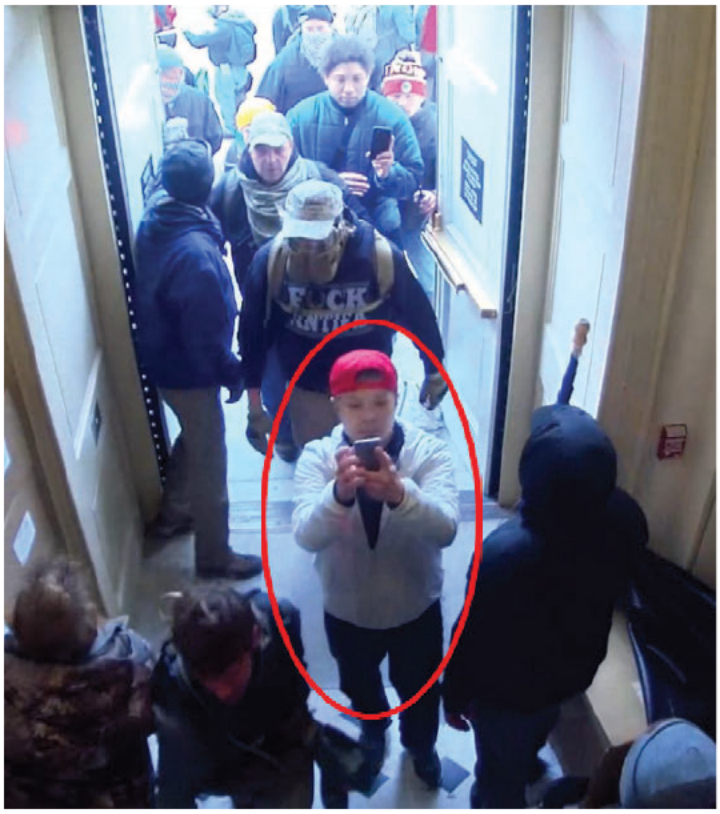
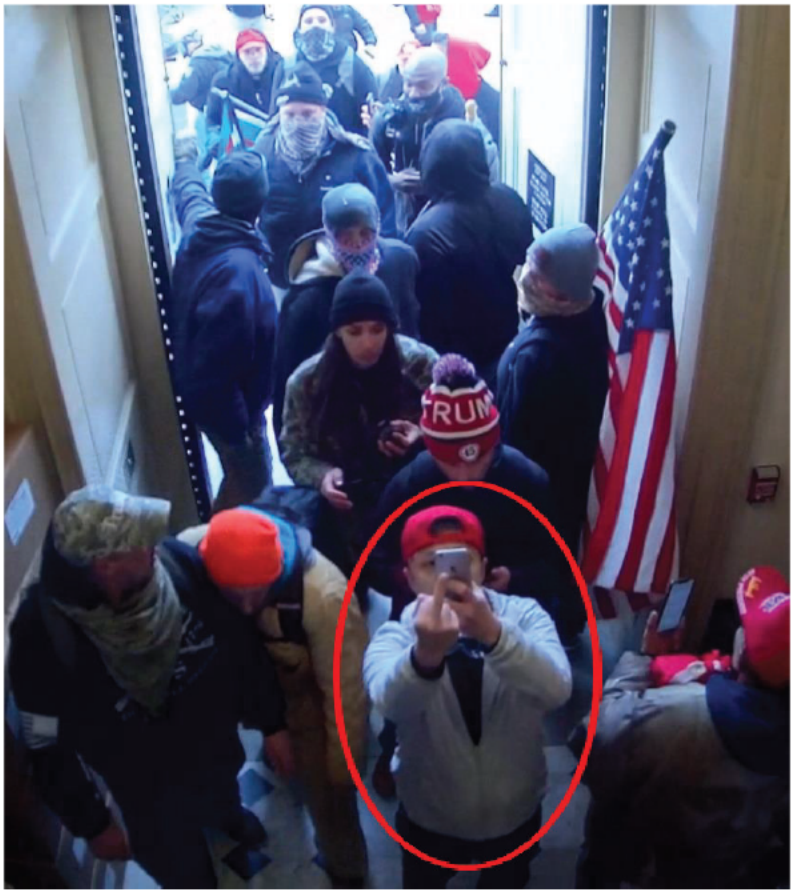
[3] Based on my investigation, I understand "msm" to be an abbreviation for the mainstream media.

[4] Other than CHAN's statements, the FBI has not uncovered any evidence to support CHAN's assertion that he was acting as a journalist or member of the news media on January 6, 2021.

that the person depicted in the photographs below was the same person the Special Agent interviewed. The surveillance video footage shows that CHAN entered the U.S. Capitol with a large crowd of rioters through the Upper West Terrace Doors at approximately 2:45 p.m. Moments after entering the Capitol, CHAN pointed his middle finger directly at the surveillance camera and raised his cellular telephone to take a picture of his middle finger. Based on the Apple logo visible in the video, I identified CHAN's cellular telephone as an iPhone. Within a minute after CHAN's entry into the Capitol, police officers on the Upper West Terrace secured this door.

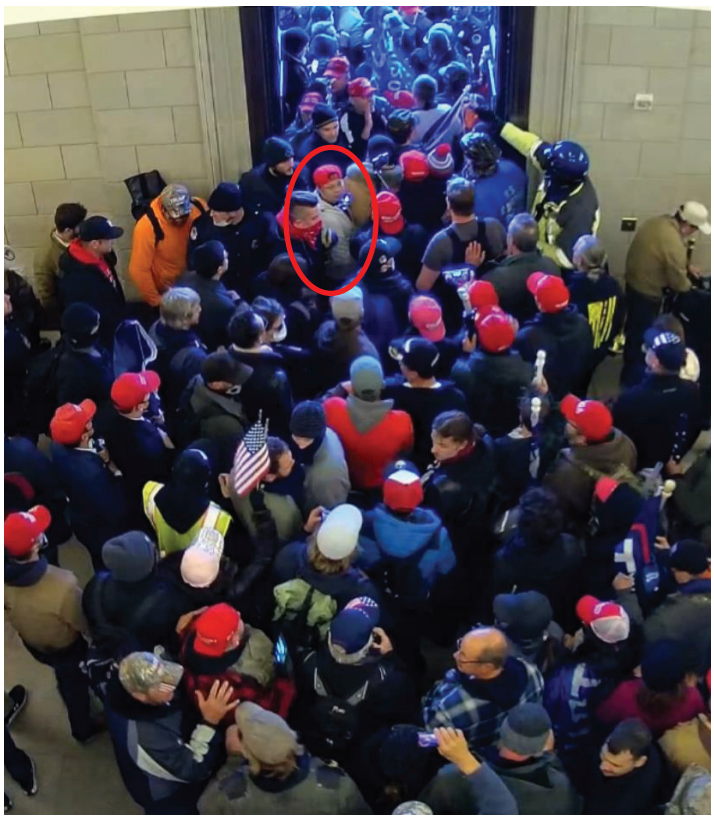






17. The FBI identified a person believed to be CHAN in surveillance video footage from the U.S. Capitol Rotunda taken at approximately 2:47 p.m.:

18. Further, the FBI identified a person believed to be CHAN exiting the U.S. Capitol through the Rotunda Doors at approximately 3:13 p.m.:



19. According to records obtained through a search warrant served on Verizon Wireless, on January 6, 2021, in and around the time of the incident, the cell phone associated with CHAN's phone number, ending in -3017, was identified as having utilized a cell site consistent with providing service to a geographic area that includes the interior of the U.S. Capitol Building. In addition, the FBI obtained subscriber records from Verizon Wireless related to the account with the phone number ending in -3017. These records show that this number is used by an iPhone, the same type of phone that CHAN used when he entered the U.S. Capitol. The account, however, is subscribed to by a person other than CHAN.

20. Based on the foregoing, your affiant submits that there is probable cause to believe that CHAN violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a "restricted building" includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

21. Your affiant submits there is also probable cause to believe that CHAN violated 40 U.S.C. § 5104(e)(2)(D) and (G), which makes it a crime to willfully and knowingly (D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress; and (G) parade, demonstrate, or picket in any of the Capitol Buildings.

[redacted]
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 7th day of September 2021.

2021.09.07
14:18:56 -04'00'

HONORABLE ROBIN M. MERIWEATHER
U.S. MAGISTRATE JUDGE